



DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOLID WASTE PROCESSING FACILITIES AT 329 IAC 11

LSA Document #05-297(SWMB)

Overview

This rulemaking proposes to amend 329 IAC 11 to implement certain provisions of Public Law 154-2005 (SEA 279) with regard to solid waste processing facilities and proposes clarification and transition language for these provisions consistent with the regulatory scheme of 329 IAC 11.

Citations Affected

Amends 329 IAC 11.

Affected Persons

Individuals or entities who own businesses that operate facilities now included under the category of a solid waste processing facility and thus subject to the rules related to such facilities; persons transferring facility permits; and permit applicants to operate transfer stations.

Reason for the Rule

This rulemaking implements provisions of SEA 279-2005 with regard to solid waste processing facilities while at the same time providing clarification and transition language for those provisions.

Economic Impact of the Rule

This rulemaking is mandated by statute therefore has no additional economic impact. This rule amendment expands the definition of a solid waste processing facility to be consistent with the change in the statute at IC 13-11-2-212; there are three new types of facilities that fall under the amended definition: a medical or infectious waste treatment facility; a solid waste solidification facility that is not located on an

operating permitted landfill; or a facility that uses plasma arc or another source of heat to treat solid waste. Under existing Indiana statute the economic impact for affected facilities would include \$12,150.00 for a new facility; a five-year renewal fee of \$2,200.00; and an annual operating fee of \$2,000.00 and if necessary \$2,500.00 for minor modifications to a permit. In Indiana, there is one medical waste treatment facility; one plasma arc/heat treatment facility; and about 10 - 15 solidification facilities.

Benefits of the Rule

Implementation of the statute through this rulemaking will provide IDEM with a mechanism to effectively monitor these types of processing facilities to the benefit of the environment. This rulemaking will also exempt transfer station permit applicants from the demonstration of need requirements in 329 IAC 11-9-5.

Description of the Rulemaking Project

This rulemaking implements provisions of SEA 279-2005 with regard to solid waste processing facilities and proposes clarification and transition language for these provisions consistent with the regulatory scheme of 329 IAC 11.

These changes include the following:

- Adding additional categories of facilities to the definition of "solid waste processing facility" to be consistent with the amended statutory definition at IC 13-11-2-212.
- Amending 329 IAC 11-9-5 regarding demonstrations of need to exclude transfer stations.
- Revising the general exclusions at 329 IAC 11-3-1(5) to clarify language and implement the

amended definition of solid waste processing facility.

- Providing a transition period for permitting additional categories of solid waste processing facilities.
- Amending 329 IAC 11-11-5 to provide comprehensive requirements for transferring permits and ownership interests.
- Amending 329 IAC 11-2-28.4 by clarifying the definition of “plasma arc treatment”, based on comments received.
- Amending 329 IAC 11-3-1(5)(A) to clarify the term “substantial processing” by further describing it, based on comments received.
- Amending 329 IAC 11-3-1(5)(B) to clarify the requirement, based on comments received.
- Amending 329 IAC 11-13-3(b)(1)(b) to remove redundant requirement, based on comments received.

Scheduled Hearings

First Public Hearing: July 18, 2006.

First Public Hearing Continued: September 19, 2006.

First Public Hearing Recessed to: November 21, 2006.

Second Public Hearing: July 17, 2007.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

- (A) human, plant animal, or aquatic life; or
- (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

There are no federal rules that are applicable to this rulemaking.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first public hearing, and the draft rule. The Solid Waste Management Board holds the first public hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second public hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Indiana Register.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rules, Planning & Outreach Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana). Technical information regarding this rulemaking action can be obtained from Daniela Klesmith, Engineering Technical Advisor, Permits Branch, Office of Land Quality, (317) 232-8840 or (800) 451-6027 (in Indiana).

